

ONE HUNDRED THIRTEENTH CONGRESS
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July 31, 2013

The Honorable Janet Napolitano
Secretary of Homeland Security
Washington, DC 20528

Dear Madame Secretary:

This week, explosions at a propane gas plant in Florida underscored the potential dangers to local communities from facilities that store liquefied gas. The Florida plant was relatively small, but the incident there injured workers, some critically, and forced an evacuation of the surrounding community.

In my district, there is a facility with much larger tanks that stores liquefied gas. My investigation indicates that the Department does not appear to be taking the steps necessary to protect the public from the risks of explosions. In fact, the Department is reaching conclusions that conflict with those of EPA inspectors, creating confusion and potentially delaying safety measures. I am writing to call this facility to your attention and to urge the Department to take all necessary steps to safeguard the local community.

Earlier this year, community leaders brought to my attention the liquefied petroleum gas storage facility owned by Rancho LPG Holdings LLC in San Pedro, California. Like the Blue Rhino facility that exploded in Florida, Rancho holds significant quantities of flammable gases, including propane. Unlike the Florida facility, the Rancho facility's holdings are stored in large tanks, posing a threat of a larger scale explosion than what was seen in Florida.

The community leaders in Rancho Palos Verdes are concerned about the risks Rancho poses to its neighboring residents. They told me that unexplained flaring has occurred at the site without proper notification and that mitigation measures have not been performed at the site to prevent an accident or terrorist attack. They are concerned that the tanks are simply too close to homes and schools, given the possibility of a large-scale explosion.

On March 14, 2013, the U.S. Environmental Protection Agency (EPA) initiated an enforcement action against Rancho for violations of legal requirements of EPA's Risk Management Program. Rancho was cited for failure to share the facility's emergency response plan with first responders who would have a role in responding to a release at the facility, failure

to assess risks in its rail storage area, and a failure to properly plan for seismic events. Essentially, EPA said that Rancho is not prepared for an earthquake or accident.

When I learned of these facts, my staff contacted the Department of Homeland Security (DHS) to learn what the Department was doing to protect the community. Under the current system, federal oversight of a facility like Rancho is split between EPA, which is charged with protecting against chemical accidents, and DHS, which is charged with protecting against chemical releases that are caused by terrorist or criminal acts.

What we learned from DHS was surprising. While EPA has taken action to protect the community from deficiencies in the Rancho facility's preparedness, DHS found no significant or disqualifying problems at Rancho. An official of the Department told my staff that the facility had just undergone a "successful CFATS inspection."¹ No explanation was given as to how Rancho could be a danger to the community according to EPA but perfectly safe according to the Department of Homeland Security.

Last week, my staff reviewed the records from that inspection, and they reveal serious inadequacies in the DHS inspection at the facility. Most of the information DHS relied upon was self-reported by the facility. And when the inspectors went to the facility to conduct the inspections, their verification efforts were minimal.

For example, the DHS inspector "verified" that the facility's emergency response plan had been communicated to local emergency responders based on an interview with a senior representative of the company's management who did not work at the facility, whereas EPA found by checking with employees and local emergency responders that the facility's emergency response plan was not on file.

Similarly, the DHS inspector "verified" that employees had been trained on their roles and responsibilities in emergency situations by reviewing training records and interviewing the same senior manager, but EPA discovered by checking with the employees that they did not know what their roles and responsibilities are for emergency response.

As I hope you can understand, the DHS actions have the potential to create considerable confusion for the community. EPA says Rancho is not prepared for an accident; DHS says the company is prepared for an intentional attack. The EPA inspection appears thorough; the DHS inspection seems cursory. The EPA findings are alarming; the DHS conclusions are reassuring.

I believe the root cause of the problem may be deficiencies in the Chemical Facility Anti-Terrorism Standards (CFATS) program administered by DHS. The CFATS program has a long

¹ Oral communication between DHS staff and Energy and Commerce Committee staff (Mar. 21, 2013).

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record of ineffectiveness. As Rep. Bennie Thompson, the Ranking Member of the Committee on Homeland Security, and I wrote President Obama earlier this year, CFATS appears to be a “failing” program that has shown a “distressing lack of progress in securing these facilities since the program was established nearly six years ago.”² Now, this example suggests that the benchmarks for progress through the CFATS program are not reliable indicators of a facility’s security. It is troubling to think that we might never have become aware of the deficiencies in the CFATS inspection if not for EPA’s work. Significant changes to the CFATS program appear warranted.

I urge you to review the Department’s actions at Rancho and the larger CFATS program. I hope you will then take whatever steps are necessary to ensure public safety.

Thank you for your attention to this matter.

Sincerely,



Henry A. Waxman
Ranking Member

² Letter from Rep. Henry A. Waxman, Energy and Commerce Committee Ranking Member, and Rep. Bennie Thompson, Homeland Security Committee Ranking Member, to President Barack Obama (May 2, 2013) (online at <http://democrats.energycommerce.house.gov/index.php?q=news/ranking-members-waxman-and-thompson-urge-president-to-establish-blue-ribbon-commission-on-chemi>).